

**IN THE MATTER OF PETITION
TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
FOR ESTABLISHMENT OF THE
HORSE CREEK TEMPORARY CONTROLLED GROUND WATER AREA NO. 43C-30006730**

The Department of Natural Resources and Conservation (DNRC) gives notice that the Horse Creek Temporary Controlled Groundwater Area (CGWA) will expire on February 12, 2008. The Horse Creek Temporary Controlled Groundwater Area was designated on February 12, 2004, after hearing pursuant to Mont. Code Ann. §§85-2-506 and -507 (2003), for a period of two years. The Horse Creek Temporary Controlled Groundwater Area designation was extended in 2006, for an additional two years. Pursuant to Mont. Code Ann. § 85-2-507, the DNRC will hold a hearing on **December 18, 2007**, commencing at 9:00 a.m. in the Great Room of the Cobblestone Community Center, located on South Woodward Avenue in Absarokee, MT.

General Information

- Interested persons should come prepared to present all information they believe relevant at the time and place of hearing.
- Copies of the Petitioner's Report and data and the Department's comments as of October 29, 2007, and data are available on the DNRC's Water Resources Division website, <http://www.dnrc.mt.gov/wrd/default.asp> and from the Water Resources Regional Office, Airport Business Park, 1371 Rimtop Drive, Billings, MT 59105-1978, Phone No. 407-247-4415.
- In order to be considered, written testimony or statements must be accompanied by the following **notarized** statement: "I AFFIRM THE STATEMENTS APPEARING IN THIS WRITTEN TESTIMONY OR EVIDENCE ARE TRUE AND CORRECT, AND ANY DOCUMENT COPIES USED IN OR ATTACHED TO THE WRITTEN STATEMENT ARE TRUE AND CORRECT COPIES."
- If you are a corporation, you are required to be represented by legal counsel. Individuals can represent their own interests; however they cannot speak on behalf of or represent others. See e.g., Commission on Unauthorized Practice v. O'Neil, 2006 MT 284, 334 Mont. 311, 147 P.3d 200.
- The burden of proof is on the proponents of a controlled ground water area. See e.g., In the Matter of Smith Valley Petition for Controlled Ground Water Area No. 76LJ 30015063, Proposal for Decision, adopted by Final Order (2007).
- Interested persons are encouraged to review the record at the DNRC, Water Resources Division, Water Rights Bureau, 1424 9th Ave., PO Box 201601, Helena, MT 59620-1601. The Department will make its decision based on the record and the comment, evidence and information submitted at the hearing. The record includes the Report, Department's comments and the underlying data gathered during the temporary designation.

Hearing Information

- All motions must be directed to the Hearing Examiner. See the *APPOINTMENT OF HEARING EXAMINER* document. Motions must be served on all parties on the Department's notice list. A copy of the list may be obtained from the website or from the DNRC, Water Resources Division, Water Rights Bureau, 1424 9th Ave., PO Box 201601, Helena, MT 59620-1601. The original motion must be accompanied by a signed statement specifying to whom copies were sent and on what date. If you wish to oppose a motion, you must respond in writing to the hearing examiner postmarked or received within thirteen (13) calendar days of the date of the statement indicating when the motion was sent. Responses outside that timeframe will not be considered. After expiration of the thirteen days, the Hearing Examiner will rule on the motion as timely as possible.
- All subpoena requests must be submitted to the Hearings Examiner.
- All motions must be filed with the hearings examiner by **November 19, 2007**.
- The Department will retain all exhibits submitted at hearing.
- There may be cross examination of expert witnesses, subject to the control of the Hearing Examiner.
- All testimony must be given under oath.

The Hearing for the Horse Creek Temporary Ground Water Area will generally proceed as follows:

- Opening Remarks by the Hearing Examiner.
- Presentation by the Horse Creek Controlled Ground Water Area Petitioner's expert of its Report.
- Questions by the Public to the Petitioner's expert regarding their Report.
- Presentation by DNRC Hydrogeologist Russell Levens regarding his comments on the Petitioners Report.
- Questions by the Public to DNRC Hydrogeologist Russell Levens regarding his comments.
- Presentation of any comments, information or evidence by the Public in favor of (proponent) extending the temporary designation or granting a permanent designation of a controlled ground water area.
- Presentation of any comments, information or evidence by the Public against (opponent) extending the temporary designation or granting a permanent designation of a controlled ground water area.
- Closing Remarks by the Hearing Examiner

Russell Levens, Department Hydrogeologist, is the appointed Staff Expert in the matter. Mr. Levens will attend the hearing to listen to oral testimony and will review all written evidence of a technical nature. The Hearing Examiner may question any proponent or opponent to clarify testimony or evidence, or to elicit additional information.

After the hearing, the Hearing Examiner will prepare written findings and a final order. The Department final order will extend the temporary designation, allow the temporary designation to expire, or designate a permanent controlled ground water area. MCA § 85-2-507.